Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45 FCC No. 00J-3
	)	
Rural Task Force Recommendation	)	

COMMENTS

The National Exchange Carrier Association, Inc. (NECA) submits these comments in support of the Rural Task Force's (RTF) *Recommendation to the Federal-State Joint Board on Universal Service.*[1]

I. BACKGROUND

On September 22, 2000, the RTF presented to the Federal-State Joint Board on Universal Service (Joint Board) its recommendations for revising universal service funding methods for rural areas.[2] Among the key points made in the *Recommendation* were that the FCC Non-rural Synthesis Model, currently used to determine forward-looking costs for Non-rural carriers, should not be used for Rural carriers. Instead, the RTF recommended that the Commission adopt a modified version of the current universal service mechanism for rural areas. The *Recommendation* also included

[1] *Federal-State Joint Board on Universal Service Seeks Comment on Rural Task Force Recommendation*, Federal Communications Commission *Public Notice*, CC Docket No. 96-45, FCC 00J-3 (rel. Oct. 4, 2000) (*Public Notice*).

[2] Federal-State Joint Board on Universal Service, *Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (rel. Sept. 29, 2000) (*Recommendation*).

suggestions for methods to develop disaggregated per-line support levels in Rural carriers' serving territories, a proposal that the Joint Board and the Commission adopt a "no-barriers to advanced services" policy, and a set of principles that the RTF believes should be used to address implicit support in interstate access charges, including development of a "High Cost Fund III" to take the place of any implicit support amounts removed from interstate access charges.[3]

NECA commends the RTF for its work. Evaluating alternative mechanisms for universal service support in rural areas was a complex task, as the *Recommendation* fully documents. Participants on the RTF represented a variety of industry segments that have not previously been able to agree on basic principles, let alone specific proposals. Remarkably, on most issues, the RTF was able to reach compromises that are, nonetheless, reasonable and consistent. The proposals set forth in the *Recommendation* should accordingly be given extraordinary weight by the Joint Board and the Commission as it considers long-term methods for reforming universal service.

II. DISCUSSION

A) NECA Agrees That The Non-rural Synthesis Model Will Not Work For Rural Carriers.

The RTF conducted extensive analysis of the FCC Non-rural Synthesis Model as a potential tool for developing support for Rural carriers.[4] The *Recommendation* lists the results of RTF's evaluation of the Non-rural Model after applying the model to a test

[3] *See generally, Recommendation* at 4.

[4] *Id.* at 17-18.

group of Rural companies.[5] These results led RTF to conclude that the model is not an appropriate tool for determining forward-looking costs of Rural carriers.[6] The *Recommendation* stated that, "when viewed on an individual rural wire center or individual Rural Carrier basis, the costs generated by the Non-rural Synthesis Model are likely to vary widely from reasonable estimates of forward-looking costs."[7]

NECA agrees with RTF's conclusions regarding the use of the Non-rural Synthesis Model for developing Rural carrier high-cost support. The results of the RTF's analyses are consistent with NECA's own analyses of this model, which show that the Non-rural Synthesis Model produces greatly distorted results for Rural carriers, whose serving areas, customer bases, and operating characteristics vary greatly, not only from those of Non-rural carriers, but among Rural carriers themselves.[8]

In analyzing methods to size a national rural high-cost fund, RTF noted that using the Non-rural Synthesis Model for this purpose would reduce available support for Rural carriers by more than one billion dollars, to $451 million.[9] According to the RTF, the

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[5] *Id.* RTF found, for example, that the Non-rural Synthesis Model, when applied to Rural carriers, produced a model of lines served that differed significantly from actual lines served, overestimating them in about one-third of modeled wire centers; similarly, the model tended to distort both route-miles of plant and the percentages of above ground and underground plant. Land area served was understated (often by more than 90 percent) in 95 percent of wire centers. Also, Central Office Equipment Switching investment, and Network Operations and Customer Operations expenses were significantly understated.

[6] *Id.*, at 18.

[7] *Id.*

[8] *See* NECA *Further Comments on Cost Models*, Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (filed Aug. 9, 1996).

[9] *Recommendation*, at 19.

reason for this drastic reduction lies in the FCC decision to use a nationwide benchmark and statewide cost-averaging for determining a 'sufficient' level of federal funding for Non-rural carriers.[10] RTF describes the effect of this methodology:

> Because Rural Carriers represent only a fraction of the overall industry, their addition in determining the national average cost benchmark changes the average by only a small amount, even though as a group the average total cost of service for Rural Carriers is more than twice that of Non-rural Carriers. For the same reason, averaging the cost of Rural Carriers with the costs of all other carriers within a state would eliminate funding for many Rural Carriers. Thirty-seven states, territories, and protectorates which receive federal universal service support for Rural Carriers today would receive zero support if statewide cost-averaging and a national benchmark were used in sizing the universal service fund available to Rural Carriers.[11]

NECA agrees that the Joint Board should not consider state-wide averaging methods for determining universal service support amounts for Rural carriers. As the RTF analysis shows, such an approach would have adverse impacts on universal service in areas served by Rural carriers. Reductions in interstate universal service funding caused by this methodological change would exert upward pressure on state funding mechanisms and cause local rates to rise to levels unaffordable for many, results that are at odds with the Commission's universal service policies.

B. The Joint Board Should Recommend Continued Use of the Current Embedded Cost Mechanism with Modifications.

The *Recommendation* suggests continued use of the existing embedded cost mechanism to determine high cost loop (HCL) universal service funding for Rural

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[10] *Id.*

[11] *Id.* (notes omitted).

carriers, with certain modifications. Specifically, the RTF recommended that the HCL fund should be "re-based" by increasing it $118.5 million, then grown by an annual factor. The RTF also recommended that the current limitation on corporate operations expenses be adjusted for growth, and that a "safety valve mechanism" be added to the current limitation on support for acquired or transferred exchanges.[12]

The RTF's recommendation to revise the indexed cap on universal service is a material improvement over current rules.[13] When the cap was initially implemented, its effects on universal service funding were relatively minor. In 1994, for example, payment shortfalls associated with the cap amounted to about $36 million, or less than 4% of the high cost fund requirements. In the year 2000, six years after the "interim" cap was imposed, payment shortfalls are expected to total nearly $133 million, almost 13% of total fund payments.[14] In all, payment shortfalls caused by the interim cap since 1994 have totaled over $350 million.[15] These continuing shortfalls are inconsistent with the

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[12] *Id.*

[13] RTF's proposal to re-base the high cost fund would return approximately $118.5 million annually to the fund, including $83.9 million for the indexed fund cap and $34.6 million for the corporate operations expense limitation, based on October 1, 1999 data and calculations supplied by NECA to RTF. *Recommendation*, at note 46.

[14] If continued into 2001 payments, the cap effect would grow to $198 million, or nearly 18 percent of full funding. *See* NECA Universal Service Fund Submission of 1999 Study Results, Tab 8, at 43 (Sept. 29, 2000).

[15] Federal-State Joint Board on Universal Service: *Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, *Further Notice of Proposed Rulemaking*, 14 FCC Rcd. 21177 (1999), Joint Comments of NECA and USTA (Dec. 17, 1999).

requirements of the Telecommunications Act for "specific, predictable and sufficient" universal service funding.

The RTF's proposal to re-base the overall cap on the HCL fund represents a major step forward, and is all the more noteworthy because it represents a consensus decision reached among various industry groups over the course of the past two years. Any capping mechanism, however, carries the risk that universal service funding will again deteriorate in the future, particularly as Rural carriers seek to deploy advanced service capability in the future. NECA recommends that the Joint Board and the Commission take account of this risk as it considers this part of the RTF's *Recommendation.*[16]

The *Recommendation* also would allow an adjustment for growth in the corporate operations expense limitation that is included in the high cost support "expense adjustment" calculation for certain study areas.[17] RTF would "re-base" and index the amounts included in the expense adjustment calculation, and would add an alternative

[16] The record in this and other dockets is replete with comments describing the effects of the cap on the universal service fund. *See, e.g., Inquiry Concerning Deployment of Advanced Telecommunications Capability to all Americans in a Reasonable and Timely Fashion, And Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of The Telecommunications Act of 1996*, CC Docket No. 98-146, *Notice of Inquiry*, NECA Comments (Mar.20, 2000), at 6-8; and Federal-State Joint Board on Universal Service: *Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, *Further Notice of Proposed Rulemaking*, Joint Comments of NECA and United States Telecom Association, (Dec. 17, 1999), at 4-6; and Federal-State Joint Board on Universal Service, *Common Carrier Bureau Seeks Comment on Requests to Redefine "Voice Grade Access" for Purposes of Universal Service Support*, CC Docket No. 96-45, *Public Notice*, NECA Comments, (Jan.19, 2000), at 3-6; and Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Users, and the Federal-State Joint Board on Universal Service, CC Docket Nos. 96-262, 94-1, 99-249, and 96-45, *Coalition for Affordable Local and Long Distance Services (CALLS) Modified Proposal*, National Telephone Cooperative Association Comments (Apr. 3, 2000), at 11.

[17] *Recommendation*, at 27 - 28.

calculation for determining the assignment of corporate operations expense.[18] NECA supports RTF's recommendation. In particular, the alternative proposed by RTF will relieve many small Rural carriers of the burden and expense of going through the waiver process, if corporate operations expenses exceed the limits of section 36.621(a)(4) of the Commission's rules.[19]

NECA also agrees with RTF that the problems created by section 54.305 of the Commission's rules should be addressed by the Joint Board and the Commission.[20] As the *Recommendation* states, customers in high cost rural exchanges must not be "doomed" to poor service because they live in exchanges that have been involved in sale or transfer transactions.[21] According to the *Recommendation*, "in many cases, this Section limits the ability and motivation of the acquiring entity to make new investments to upgrade the networks in these acquired properties in spite of their high cost and rural nature."[22]

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[18] *Id.*, at 28.

[19] 47 C.F.R. § 36.621(a)(4).

[20] *Id.*, at 29. Section 54.305 limits high cost payments for transferred exchanges to the level of the transferring carrier.

[21] *Id.* NECA and the national telephone associations previously have stated in this docket that section 54.305 of the Commission's rules acts as a disincentive to carriers to upgrade loop plant in such cases, that the rule impedes modernization, and that it slows deployment of advanced services in rural America. NECA and other parties advocated, therefore, that the rule should be eliminated. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Recommended Decision*, Comments of NECA, NRTA and OPASTCO (filing jointly) (Aug. 14, 2000).

[22] *Recommendation*, at 29.

NECA also concurs with RTF's observations about potential difficulties associated with the time lag between provision of service and receipt of universal service funding. The *Recommendation* states, and NECA agrees, that this lag should be as short as technically and administratively feasible.[23] The phenomenon RTF identifies not only contributes to distortions in distribution of support between incumbent carriers and new entrants, but has serious adverse impacts on carriers seeking to serve new territory, for which prior-year operating results may not be available on a timely basis. NECA encourages the Joint Board and the Commission to seriously consider RTF's recommendation for a loop-counting formula that would more accurately represent the reporting period, as well as shorten the lag between service provision and payments.

III. CONCLUSION

The RTF *Recommendation*, if adopted, will help assure universal service for rural areas. The RTF properly recognizes that carriers serving rural high-cost areas are different from Non-rural carriers, that a separate high-cost fund mechanism must be maintained for Rural carriers, and that other badly-needed reforms in the universal service rules must be adopted quickly. The RTF *Recommendation* should be adopted immediately by the Joint Board and the Commission, with due consideration of the

[23] *Id.*, at 38.

potential longer-term effects of imposing artificial limits, such as continuation of any form of capping, on the size of the Rural carrier high cost fund.

Respectfully submitted,

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